IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.7376 OF 2003

M/s.Shree Hanumat Textiles. ...Petitioner.
Vs.
The Shramik Sahakari Bank Ltd. & Ors. ...Respondents.
....
Mr. Rupesh Nalavade for the Petitioner.
Mr.A. S. Desai for Respondent No.1.
Mr. V.P. Malvankar, AGP for Respondent Nos.11 & 12.
.....
CORAM : KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.

March 20, 2006.

P.C. (Per Dr. D.Y. Chandrachud, J.)

A recovery certificate has been issued by the Assistant Registrar, Co-operative Societies, in the amount of Rs.1,10,42,918/- under Section 101 of the Maharashtra Co-operative Societies' Act, 1960, against the Petitioner. The order has been confirmed in revision by the revisional authority.

2. The challenge in these proceedings to the constitutional validity of Section 101 of the Maharashtra Co-operative Societies' Act, 1960, does not survive since it is fairly accepted by Counsel appearing on behalf of the contesting parties that the vires of the provision has been upheld by the Division Bench of this Court at the Nagpur Bench in **M/s.Annapurna Engineering Corporation**

vs. State of Maharashtra, (Writ Petition 3489 of 2002 dated 11th June 2003). In so far as the jurisdiction of the Assistant Registrar under Section 101 of the Maharashtra Co-operative Societies' Act, 1960, is concerned, the judgment of the Full Bench dated 12th December 2003 in Writ Petition 727 of 2003 has been stayed on 16th January 2004 by the Supreme Court in **Greater Bombay Coop. Bank Ltd. vs. M/s.United Yarn Tex Pvt. Ltd.** (Petition for Special Leave to Appeal (Civil) No.886/2004). There is, therefore, no embargo on proceedings being adopted under Section 101. There is no challenge in the course of the arguments before this Court to the recovery certificate on merits. We, therefore, do not find any reason to interdict the recovery proceedings adopted by the First Respondent for the realisation of its dues in the exercise of our extraordinary jurisdiction under Article 226 of the Constitution. The petition is dismissed.

CHIEF JUSTICE

Dr.D. Y. Chandrachud, J.